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### CHAPTER 14 CONVERSION OF CERTIFICATES AND VOUCHERS TO HOUSING CHOICE VOUCHERS

#### 14.1 CHAPTER OVERVIEW

This chapter will describe the activities required during the period of time that families assisted by rental certificates, over fair market rent tenancy option certificates (OFTO), or rental vouchers are converted to the housing choice voucher program. With one exception, all of the activities described in this chapter apply to families who were already rental certificate or rental voucher participants on October 1, 1999, which is the effective date of the merger to the housing choice voucher program.

The period of time during which the conversion from one form of subsidy to housing choice vouchers will occur is known as the transition period. The transition period may last through September 2001, but can be completed sooner if participant families voluntarily convert to the housing choice voucher program before they are required to do so.

Effective October 1, 1999 (the merger date), the only type of subsidy available to applicant and participant households at initial occupancy of a unit is a housing choice voucher.

## 14.2 CONVERSION ACTIVITIES FOR FAMILIES ASSISTED ON OCTOBER 1, 1999, WHO REMAIN IN THEIR UNITS THROUGHOUT THE TRANSITION PERIOD

#### **Pre-Merger Vouchers (Rental Vouchers)**

On the merger date, all in-place rental voucher program participants automatically became housing choice voucher program participants. The pre-merger housing voucher HAP contract requires that all rent and assistance payment calculations be performed in accordance with HUD requirements, allowing the new calculations to take effect without execution of a new HAP contract.

Exception for Families Receiving a Shopping Incentive

There is one exception to the immediate implementation of the new calculations that applies to families assisted prior to October 1, 1999, who are receiving a shopping incentive credit. These are families that are paying less than 30 percent of income for rent because they are leasing units for which rent plus utilities are less than the payment standard. These families will continue to receive the shopping incentive until:

- Family moves to a new unit; or
- Terms of the lease for the current unit are revised, requiring a new HAP contract. Any new
  contract must be the housing choice voucher HAP contract that does not allow for the
  shopping incentive.

#### **Over-FMR Tenancy Option (OFTO) Certificates**

OFTO families, like pre-merger voucher families, automatically became housing choice voucher participants on the merger date; the new rent calculations for housing choice vouchers were used for all OFTO reexaminations conducted on or after that date. Unlike voucher families, for OFTO families there are no exceptions to the rules on use of the new housing choice voucher rent formula.

## **Execution of Housing Choice Voucher HAP Contracts on Behalf of Pre-Merger Vouchers and OFTO Certificates**

It is unnecessary to execute a new housing choice voucher HAP contract "convert" pre-merger vouchers and OFTO contracts. The old versions of the HAP contracts for voucher and OFTO tenancies provide that rules regarding the calculation of subsidy be applied in accordance with HUD regulations. Therefore, the merger rule and new rent formulas apply to these families without execution of a new HAP contract.

It will be necessary, however, to sign a new housing choice voucher contract when the following occurs:

- Family moves;
- Owner and family wish to revise the terms of the lease agreement; or
- Lease with a definitive ending date expires, and the owner and family wish to enter into a new lease and HAP contract for the same unit.

#### **Application of Payment Standards**

The rules regarding payment standards are discussed in detail in Chapter 7. Since the merger date, PHAs may have revised payment standards to comply with or to take advantage of new rules. Newly established payment standards should be used in the computation of a family's housing assistance payment at the next regular annual reexamination of each voucher participant and when a family:

- Moves to a new unit:
- Is "converted" from a certificate to a housing choice voucher family;
- Has a change in family composition resulting in a revised subsidy standard; or
- Initially receives assistance in the tenant-based assistance program.

In some localities PHAs may reduce payment standards. Under these circumstances, current participant households are protected against an immediate reduction in assistance which results solely from a reduction in the payment standard for the family unit size. The higher payment standard will be used until the second annual reexamination after the merger date.

#### **Rental Certificates**

Families Remaining in Assisted Units

A participant family leased under the rental certificate program may continue to receive assistance with a certificate until the second annual reexamination after the merger date, as long as it remains in the same unit and there are no lease revisions (requiring execution of a new HAP contract).

For these families, the certificate rent formula will be used until the family:

- Moves:
- Enters into a new lease with the owner; or
- Has its assistance converted to the housing choice voucher program (no later than the second annual reexamination after the merger date).

The second annual reexamination date after October 1, 1999, is the latest possible conversion date. If any family remains in a unit receiving certificate assistance throughout the transition period, the PHA must provide 120 days advance written notice of the end of participation in the certificate program prior to the second annual reexamination after the merger. The notice must inform the owner and family that the certificate HAP contract will end and that they have the opportunity to enter into a new housing choice voucher HAP contract.

PHAs may not require conversion to the housing choice voucher program prior to the family's second annual reexamination. However, if a PHA wishes to complete the transition of families into the housing choice voucher program more quickly, it may inform owners and families of the opportunity to renegotiate the lease and HAP contract and execute a housing choice voucher HAP contract, provided that there is no increase in the family's share of rent.

Families Who Wish to Move

If the family wishes to move, the PHA must issue a housing choice voucher to the family. Any HAP contract executed on a new unit must be a housing choice voucher HAP contract. If the family does not locate another unit, it may continue to receive certificate assistance in the current unit until the second annual reexamination after the merger date, or until it finds another unit and moves.

#### Rent Increases

As long as a family is receiving assistance under the certificate program, the certificate rules on rent increases apply. If an owner wishes to increase the rent to an amount that is higher than permitted by application of the annual adjustment factor, the PHA may not approve the rent increase. However, if the increased rent requested by the owner is reasonable, as compared to

similar unassisted units, and the family wishes to remain in the unit, the certificate contract may be terminated and a new housing choice voucher contract may be executed on the family's behalf. All of the rules described in this guidebook for initial leasing in the housing choice voucher program would then apply to that lease and HAP contract (except the maximum initial rent burden as explained below).

PHAs should exercise care when suggesting early conversion to the housing choice voucher program. If an owner chooses to convert to the housing choice voucher program earlier than required because he or she wishes to receive a rent which would not be permitted under the certificate program, the PHA must be sure that the rent reasonableness determination is properly conducted.

Conversion to housing choice voucher assistance, coupled with a rent increase, may result in the family share increasing to an amount greater than 30 percent of monthly adjusted income. The PHA must not permit the owner to increase the rent unless the new proposed rent is reasonable.

## 14.3 APPLICATION OF OTHER RULES TO CONVERSIONS OF ASSISTANCE TO HOUSING CHOICE VOUCHERS

#### **Maximum Initial Rent Burden**

The merger rule prohibits families from paying more than 40 percent of monthly adjusted income for rent at admission to the program and at initial occupancy of any unit when the gross rent exceeds the payment standard. See further discussion of this rule in Chapter 6. However, the 40 percent limit does not apply to the conversion of assistance in the same unit.

For example, if a certificate family remains in its original unit through the transition period and signs a new lease with the owner, the PHA is not required to apply the rule on maximum initial rent burden. The 40 percent limit does not apply in this example because the family is not moving to a new unit.

If the family decides to move to a new unit, the maximum 40 percent of monthly adjusted income does apply.

#### **Renting to Relatives**

PHAs are prohibited from approving a HAP contract when the owner is a close relative of the tenant, unless the PHA determines that approving the unit will provide a reasonable accommodation for a family member with disabilities. Current HAP contracts (entered into before June 17, 1998) on behalf of owners and tenants who are related may continue, but new leases and HAP contracts cannot be approved, *with one exception*. If a contract and lease are signed solely as a result of the merger to the housing choice voucher program (at the conversion of assistance for an in-place participant family), there is no prohibition against signing this new HAP contract. See Chapters 8 and 11 for a more complete discussion of the prohibition against renting to relatives.

# Effect on Owner Ability to Submit Claims for Unpaid Rent, Damages and Vacancy Loss for Conversion of Pre-1995 HAP Contracts to Housing Choice Vouchers

Families who have remained in place since August 1995 may still be assisted under a pre-1995 version of the HAP contract (for either certificates or vouchers). These pre-1995 HAP contracts provided that owners collect a reduced security deposit from participants, but permitted the owner to make a claim to the PHA for reimbursement of unpaid rent, tenant damages, and vacancy loss (Certificates only) owed as a result of the tenant vacating the assisted unit. The tenant move-out triggers eligibility for these claims.

At the time of conversion from the pre-1995 HAP contract, the owner will be entitled to make a claim only if the family moves out of the unit. In these circumstances the owner must comply with all of the PHA's rules regarding submission and payment of claims.

However, if the family and owner choose to enter into a new housing choice voucher HAP contract for the same unit, the owner may not submit a request for a claim because the family has not vacated the unit. However, an owner may require the family to increase the amount of its security deposit.

#### 14.4 MTCS AND OTHER SOFTWARE MODIFICATIONS

Beginning on the merger date of October 1, 1999, MTCS accepted data on a revised form HUD-50058, and accepted admission records only for the housing choice voucher program. PHAs were required to modify their internal software programs to permit transmission of the new youcher rent formula.